

tobacco for destruction; removal of processed tobacco for scientific testing or testing of equipment which results in the destruction of the processed tobacco or the return of the processed tobacco to the factory premises; and transfer of processed tobacco between permitted premises of the same manufacturer. Any removal of processed tobacco other than those listed above requires the manufacturer to first obtain authorization to engage in another business within the factory under § 40.47 and to keep records and submit reports under §§ 40.521 and 40.522, unless the manufacturer can show to the satisfaction of the appropriate TTB officer that the removal is connected with the business of a manufacturer of tobacco products rather than with the business of a manufacturer of processed tobacco.

[T.D. TTB-78, 74 FR 29409, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37302, June 21, 2012]

#### § 40.73 Additional information.

The appropriate TTB officer may require such additional information as he may deem necessary to determine whether the applicant is entitled to a permit under the provisions of this part. The applicant shall, when required by the appropriate TTB officer, furnish as a part of his application for such permit such additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to a permit.

#### § 40.74 Investigation of applicant.

(a) *Investigation.* The appropriate TTB officer may cause inquiry or investigation to be made to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is eligible for a permit. Any of the following conditions may be grounds for denial of a permit:

- (1) The premises on which it is proposed to conduct the business are not adequate to protect the revenue;
- (2) The activity proposed to be carried out at such premises does not meet the minimum manufacturing or activity requirements of § 40.61(b); or
- (3) The applicant (including, in the case of a corporation, any officer, di-

rector, or principal stockholder and, in the case of a partnership, a partner)—

(i) Is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter;

(ii) Has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or

(iii) Has failed to disclose any material information required or made any material false statement in the application therefor.

(b) *TTB action.* The appropriate TTB officer, if there is reason to believe that the applicant is not entitled to a permit, shall promptly give the applicant notice of the contemplated disapproval of the application and opportunity for hearing thereon in accordance with part 71 of this chapter, which part (including the provisions relating to the recommended decision and to appeals) is applicable to such proceedings. If, after such notice and opportunity for hearing, the appropriate TTB officer finds that the applicant is not entitled to a permit, he shall, by order stating the findings on which his decision is based, deny the permit.

(26 U.S.C. 5712)

[T.D. TTB-75, 74 FR 14482, Mar. 31, 2009]

#### § 40.75 Issuance of permit.

If the application for permit, together with the bond and supporting documents, required under this part is approved by him, the appropriate TTB officer shall issue a permit on TTB F 5200.10 to the applicant as a manufacturer of tobacco products.

(72 Stat. 1421; 26 U.S.C. 5713)

[T.D. 6871, 31 FR 33, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

#### § 40.76 Retention of permit and supporting documents.

The manufacturer shall retain his permit, together with the copy of the application and supporting documents